IN THE HIGH COURT OF JUDICATRE, ANDHRA PRADESH;

AT HYDERABAD.

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER,

TWO THOUSAND AND FOUR.

PRESENT

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 3140 OF 1996

Between

P.Sankara Reddy .....Petitioner

And

1. The District collector, Kurnool.

2. The Sub Registrar-I, District Registrar's Office, Industrial

Estate Road, Kurnool.

3. The Mandal Revenue Officer, Kallur, Krishna nagar,

Kurnool dist.

4. The Secretary, A.P. Wakf board, Nampally, Hyderabad.

....Respondents.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to issue a Writ of mandamus or any other appropriate Writ or order holding that letter No. D5/4154/95, dated 16-11-1995 and the minutes dated 10-11-1995 referred to therein of the first respondent, as illegal, without jurisdiction and

arbitrary.

Counsel for the petitioner: Mr.K.Somakonda Reddy, Advocate

Counsel for the respondents: Govt. Pleader for Revenue.

This Court made the following Order.:

THE HONOURABLE SRI JUSTICE

R. SUBHASH REDDY

WRIT PETITION No. 3140 OF 1996

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ORDER:

This Writ Petition is filed, questioning the proceedings in Reference No.D5/4154/95 dated 16-11-1995 issued by the first respondent-District Collector, Kurnool District, and the minutes of the meeting dated 10-11-1995, referred therein.

As averred in the affidavit filed in support of the Writ Petition, it is the case of the petitioner: that he is the absolute owner and possessor of the land admeasuring Ac.17.43 cents, situated in Sy.No. 611 of Kallur village, Kurnool district. The said land was originally taken on lease by his father for seven years from his original owners, Mr. Kasim Sab and two others, vide registered lease deed dated 31-5-1909. Further, the said lease was extended by registered lease deed dated 19-3-1924. Later, the father of the petitioner,

P.Narayana reddy, has purchased the said land admeasuring Ac.17.43 cents vide registered sale deed dated 15-6-1950.

The A.P. Wakf Board, through its Regional Officer, has filed Suit in O.S.No. 24 of 1969 on the file of the Principal Subordinate Judge, Kurnool against the father of the petitioner and eleven others for declaration that the land covered by Sy.No. 611 of Kallur village is a wakf property and also claiming possession of the said land. The said suit was dismissed by judgment and decree dated 16-3-1970, holding that the said suit land was not a wakf property and the said judgment has became final. The petitioner has applied to the Executive Officer of Kallur Gram Panchayat, seeking approval of lay out for house sites and the same was approved by the Gram panchayat in proceedings in L.Dis.No. 10/72, dated 26-1-1972. A part of the land in the same survey number was also acquired by the A.P. Housing Board and Award No.11 of 1977, dated 30-6-1977 was passed, awarding compensation to the owner of the said land.

It is the case of the petitioner that he is the absolute owner and possessor of the land in question, as he succeeded to the rights of his father, who has purchased the said land by registered sale deed dated 15-6-1950, and, in spite of the fact that the suit filed by the Wakf Board was dismissed, the first respondent addressed the District Registering Authority, enclosing minutes of meeting dated 10-11-1995. In the minutes of meeting referred to in the impugned proceedings, it is stated that the land is of Jall Bagh Mosque. It is the

case of the petitioner that when he presented the document for the purpose of registration to transfer a part of the said land, the joint Sub Registrar has addressed letter dated 24-2-1996 stating that in view of the impugned proceedings, the said land, covered by Survey No. 611/2 of Kallur Village, is a Wakf property and registration of the said land will be subject to clearance from the Wakf Board.

It is the case of the petitioner that though the suit filed by the Wakf Board was dismissed, and he is the absolute owner and possessor of the land in question, the registering authority is not accepting the document for the purpose of registration, without any valid reason. It is submitted by Sri K.Somakonda Reddy, the learned Counsel for the petitioner that the petitioner has got valid title to the property in question, as he succeeded to the property from his father, who has purchased the same by registered sale deed dated 15-6-1950. In that view of the matter and also in view of dismissal of the suit filed by the Wakf Board, the first respondent has no authority to address letter to the registering authority and the registering authority cannot refuse registration, basing on such letter. Precisely the authority of the first respondent is questioned on the ground that he has no such authority and jurisdiction to address the District Registrar, unilaterally declaring the said land as Wakf Property.

Though the Writ Petition is of the year 1996, no counter affidavit is filed. However, it is submitted by the learned Government Pleader for Revenue that the said property is notified as Wakf property and in that view of the matter,

directions are issued, directing the District Registrar not to accept any document in respect of the land in question for registration unless there is clearance from the Wakf Board.

With reference to the above pleadings and submissions, it is to be seen, it is the case of the petitioner that his father has purchased the property in question by registered sale deed as early as in the year 1950. The suit in O.S.No. 24 of 1969 filed by the Wakf Board, through its Regional Officer, also ended in dismissal. The said suit was filed seeking specific relief for declaration that the land covered by Sy.No. 611 of Kallur village is a wakf property and, possession of the said land was also claimed. However, the said suit was dismissed by judgment and decree dated 16-03-1970. It is not in dispute that the father of the petitioner was seventh defendant in the said suit. It is also not in dispute that the said judgment has became final and no appeal was preferred against the said judgment and decree dated 16-3-1970. When the suit filed by the Wakf Board through its Regional Officer was dismissed, unilaterally it cannot be presumed that the land in question is a wakf property. There is also no statutory notification as per the rules framed under the Registration Act, so as to direct the registering authority, prohibiting registration of the land in question. In that view of the matter, the first respondent, by merely addressing a letter, cannot declare unilaterally that the said land is a wakf property and at the same time, the registering authority cannot refuse registration, based on such letter addressed by the first respondent. In the decision relied on by the learned Counsel for the petitioner in the case of *S.Nagi Reddy Vs.Joint Sub Registrar-I,*

Registration and Stamps, Tirupathi, this Court has held that the Sub Registrar being the statutory authority cannot refuse to register a document at the dictation of an extraneous authority. So far registration of a document is concerned, the authority concerned shall consider whether the document presented for registration is in accordance with the provisions of the Registration Act, or not. But, by taking into account the letter addressed by the first respondent, the registering authority cannot refuse to register any document. There is no such power as per the provisions of the Wakf Act and rules made there under, to direct the registering authority, not to register any land.

In that view of the matter and for the foregoing reasons, there is no valid authority for issuing the impugned proceedings by the first respondent-District Collector and accordingly, the letter dated 16-11-1995 and minutes of meeting referred therein, to the extent of land of the petitioner, admeasuring Ac.17.43 cents, situated in Sy.No. 611 of Kallur village, Kurnool District, is set aside. However, If any document is presented by the petitioner for registration conveying the land in Sy.No. 611, admeasuring Ac.17.43 cents, or, any part there of, the registering authority shall entertain and register the same, without reference to the impugned proceedings and minutes of meeting referred therein, if the said document is otherwise in order.

The Writ petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 15-12-2004.

Msnr

That Rule Nisi has been made absolute as above. Witness the Honourable Sri Devinder Gupta, the Chief Justice on this Wednesday, the fifteenth day of December, two thousand and four.

To

1. The District collector, Kurnool.

2. The Sub Registrar-I, District Registrar's Office, Industrial

Estate Road, Kurnool.

3. The Mandal Revenue Officer, Kallur, Krishna nagar,

Kurnool dist.

4. The Secretary, A.P. Wakf board, Nampally, Hyderabad.

5. Two CCs to G.P. for Revenue, High Court of AP, Hyderabad.

6. Two CD copies.